

SOUTHEASTERN UNIVERSITIES RESEARCH ASSOCIATION, INC.
THOMAS JEFFERSON NATIONAL ACCELERATOR FACILITY

**Visiting Researcher Agreement
(Non-Proprietary)**

This Visiting Research Agreement is entered into between _____,
Hereafter called the User, and the Southeastern Universities Research Association, Inc. (SURA), which holds the managing and operating contract for the Thomas Jefferson National Accelerator Facility (JLab) under contract number DE-AC05-84ER40150 for the U.S. Department of Energy (DOE).

In consideration of the mutual benefits arising from this Agreement, including those accruing to SURA/Jlab as a result of its association with the User, and to the User as a result of its association with Jlab's staff, the parties agree as follows:

1. Description of Work

This agreement shall apply to all experiments and collaborative work at Jlab carried out by the User. The User shall be permitted to use the Jlab facilities to perform approved experiments or for on-site collaborative efforts with Jlab staff or others (including other Users). It is the User's responsibility to inform SURA/Jlab of any changes in status that could affect the provisions of this agreement. All experiments and/or research conducted under this agreement shall be nonproprietary in nature, published in open literature, and considered part of the public domain. Any exceptions shall require the application of appropriate terms and conditions before such work is undertaken.

2. Personnel

Although the User is not considered an employee or agent of SURA/Jlab, the User agrees to follow the administrative and technical supervision of SURA/Jlab during and in connection with their experiments, and to abide by all applicable policies and procedures of SURA/Jlab while on the site.

3. Responsibilities

3.1 SURA/Jlab

In exchange for collaborative work provided by the User, SURA/Jlab will exercise reasonable effort to provide to the User:

- office and lab space including desks, minimal supplies, lab benches, chairs, meeting room space, and a cafeteria;
- access to phones, library, computer networks, and general use computational facilities;
- a Jlab account funded by the User so the User can conveniently and directly charge to this account items the User chooses to purchase or has separately agreed to purchase (a purchase order or other appropriate mechanism from the user's home institution must fund the account.);

- a Jlab-approved representative to serve as the User's sponsor for their activities at the lab'
- assistance with training and badge requirements; access to insurance and information on local housing;
- information on the scientific program; and
- appropriate support and beam time to run approved experiments.

3.2 User

In exchange for the aforementioned (paragraph 3.1), the User agrees to:

- use Jlab resources in a manner consistent with Jlab's policies and guidelines for purposes consistent with the lab's mission;
- ensure that the sponsor and User Liaison Office are kept informed regarding and change in the User's relationship with the lab;
- accept the responsibility that all property brought to Jefferson Lab should be clearly marked to show ownership. Property that will become part of a test setup or experiment installation *must* be clearly marked to show ownership. This includes but is not limited to test equipment, lap tops, PCs, printers, PDAs or any other equipment that could be confused with Jefferson Lab property. Contact the Jefferson Lab Property Coordinator (x7348) for assistance.
- accept all responsibility for the return of library materials or reimburse Jlab for the loss of library materials; and
- take all reasonable precautions in the performance of work at Jlab and comply with all environmental, health, and safety regulations and requirements of Jlab while on the site.

4. **Publications**

4.1 The User will submit to Jlab a copy of each professional publication produced in whole or part on work performed at Jefferson Lab. A "professional publication" is defined as any professional work suitable for a journal or conference proceedings that is presented for public consumption. It may be in the form of a paper document, and electronic document (e-print or Internet), an audio or video recording, or other media. When feasible, copies of publications citing Jlab publications should also be provided.

4.2 All experiments, research, and/or other collaborative endeavors conducted pursuant to this agreement shall be nonproprietary in nature, publishable in open literature, and considered a part of the public domain.

5. **Joint Intellectual Property**

- 5.1 Intellectual property developed solely by the User will be governed by the Intellectual Property Provisions (Class Waiver) attached to this agreement.
- 5.2 Intellectual property developed jointly by employees of both SURA/Jlab and the User will be jointly owned. Each party shall have an equal, undivided interest in any patent, copyright or other intellectual property jointly developed.

6. **Liability Disclaimer**

In no event shall SURA, Jlab or the Department of Energy, their officers, agents or employees be liable for any alleged or actual liability (including costs and expenses):

- (a) For personal injury (including death), property damage or damages of any kind suffered by the User unless caused solely by SURA, its officers, agents or employees;
- (b) For any third-party claims, losses, expenses or damages of any kind incurred by the User unless caused solely by SURA its officers, agents or employees; or
- (c) For any claims, losses, expenses or damages caused by the use or misuse of technical data communicated or imparted to the User during his/her assignment under this Agreement.

7. **Term**

This agreement shall become effective when signed by the User and SURA/Jlab and shall continue for 5 years; either party may terminate the Agreement by 30 days written notice to the other party.

AGREED:

User_____ (Date)

SURA/Jlab_____ (Effective Date)

INTELLECTUAL PROPERTY PROVISIONS

Attachment A

PATENT RIGHTS – USER FACILITIES (CLASS WAIVER)

Note: A *User Agreement* incorporating this Patent Rights – User Facilities (class waiver) does not cover inventions of the facility operator, nor apply when the User is operating under an *international agreement or is funded by the United States Government under another agreement* with DOE which *require* a different disposition of patent rights.

(a) Definitions

- (1) “User” means the person or entity with which this Agreement is made.
- (2) “Subject Invention” means any invention or discovery of the User, conceived or first actually reduced to practice in the course of or under this Agreement, and includes any art, method, process, machine manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plants, whether patented under the Patent Laws of the United States of America or any foreign country.
- (3) “Facility Operator” means the operating contractor which manages and operates the Government-owned, contractor-operated facility where the work under this Agreement is to be performed.
- (4) “Patent Counsel” means the DOE Patent Counsel assisting the Facility Operator.

(b) Rights of the USER

(1) Election to Retain Rights

Subject to the provisions of Paragraph (c)(2) of this Clause, the User may retain the entire right, title and interest in any patent application filed in any country on a Subject Invention reported and elected in accordance with Paragraph (d) of this Clause and in any resulting patent secured by the User. Where appropriate, the filing of patent applications by the User is subject to DOE security regulations and requirements.

(2) Minimum License

The User reserves an irrevocable, nonexclusive, paid-up license in each patent application filed in any country on a Subject Invention and any resulting patent in which the User does not elect to retain title or in which the Government acquires title. The license shall extend to the User's domestic subsidiaries and affiliates, if any, within the corporate structure of which the User is a part and shall include the right to grant sublicenses of the same scope to the extent the User was legally obligated to do so at the time this Agreement was entered into. The license shall be transferable only with approval of DOE except when transferred to the successor of that part of the User's business to which the invention pertains.

(c) Rights of Government

(1) Assignment to the Government

The User agrees to assign to the Government, upon request, the entire right, title and interest in any country to each Subject Invention of the User except to the extent rights are retained by the User under Paragraph (b) (2) of this Clause, where the User:

- (i) Does not elect pursuant to this Clause to retain such rights; or

(ii) Fails to have a patent application filed in that country on the Subject Invention or decides not to continue prosecution or not to pay maintenance fees covering the invention; or

(iii) At any time, the User no longer desires to retain title.

(2) Terms and Conditions of Waived Rights

(i) To preserve the Government's residual rights to Subject Inventions, the User shall take all actions in reporting, electing, filing on, prosecuting and maintaining invention rights promptly, but in any event, in sufficient time to satisfy domestic and foreign statutory and regulatory time requirements, or, if the User decides not to take appropriate steps to protect the invention rights, it shall notify DOE in sufficient time to permit the Government to file, prosecute and maintain patent applications and any resulting patents prior to the end of such domestic or foreign statutory or regulatory time requirements.

(ii) The User shall convey or assure the conveyance of any executed instruments necessary to vest in the Government the rights set forth in this Clause.

(iii) The User hereby grants to the Government a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced each Subject Invention throughout the world for or on behalf of the United States.

(iv) The User shall provide the Government a copy of any application filed on a Subject Invention promptly after such application is filed, including its serial number and filing date.

(v) The User agrees that with respect to any Subject Invention in which it has acquired title, DOE has the right to require the User, or assignee or exclusive licensee of Subject Invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicants or applicant, upon terms that are reasonable under the circumstances, and if the User, assignee, or exclusive licensee refuses such request, DOE has the right to grant such a license itself if DOE determines that:

(A) Such action is necessary because the User or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the Subject Invention in such field of use;

(B) such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the User, assignee, or their licensees; or

(C) such action is necessary to meet requirements for public use specified by federal regulations and such requirements are not reasonably satisfied by the User, assignee, or licensees.

(vi) The User shall submit written reports at reasonable intervals upon request of the Government during the term of the patent on the Subject Invention regarding:

(A) the commercial use that is being made or is intended to be made of the invention; and

(B) the steps taken by the User or an assignee or exclusive licensee to bring the invention to the point of practical application or to make the invention available for licensing.

To the extent data or information supplied under this section is considered by the User, its licensee or assignee to be privileged and confidential and is so marked, DOE agrees that, to the extent permitted by 35 U.S.C. Sec 202(c) (5), it will not disclose such information to persons outside the Government.

(d) Invention Identification, Disclosures, and Reports

The User shall furnish the Patent Counsel a written report containing full and complete technical information concerning each Subject Invention of the User within six (6) months after conception or first actual reduction to practice, whichever occurs first, in the course of or under this contract, but in any event prior to any on sale, public use or public disclosure of such invention known to the User. The report shall identify the agreement and inventor and shall be sufficiently complete in technical detail and appropriately illustrated by sketch or diagram to convey to one skilled in the art to which the invention pertains a clear understanding of the nature, purpose, operation, and to the extent known, the physical, chemical, biological, or electrical characteristics of the invention. The report should also include any election of patent rights under this Clause. When an invention is reported under this Paragraph (d), it shall be presumed to have been made in the manner specified in Section (a)(1) and (2) of 42 U.S.C. Dec 5908.

(e) Limitation of Rights

Nothing contained in this Patent Rights Clause shall be deemed to give the Government any rights with respect to any invention other than a Subject Invention except as set forth in the Facilities License of Paragraph (f).

(f) Facilities License

In addition to the rights of the parties with respect to inventions or discoveries conceived or first actually reduced to practice in the course of or under this Agreement, the User agrees to and does hereby grant to the Government and irrevocable, nonexclusive paid-up license in and to any inventions or discoveries regardless of when conceived or actually reduced to practice or acquired by the User, which at any time through completion of this contract are owned or controlled by the User and are incorporated in the facility as a result of this agreement to such an extent that the facility is not restored to the condition existing prior to the agreement (1) to practice or to have practiced by or for the Government at the facility, and (2) to transfer such license with the transfer of that facility. The acceptance or exercise by the Government of the aforesaid rights and license shall not prevent the Government at any time from contesting the enforceability, validity or scope of, or title to, any rights or patents herein licensed.

(g) Rights in Technical Data

The Government shall have the right to use, duplicate or disclose any technical data first produced or furnished under this agreement, and to permit others to do so. Except as may be otherwise provided in this agreement, the Contracting Officer shall have the right to require the User to deliver a nonproprietary report of the research results.

(h) Rights Subject to Another Agreement

The intellectual property rights acquired by the User under this agreement shall also be subject to any additional terms and conditions of any other agreement, contract, grant or arrangement with the Government through which the User or its employees receive(s) funding, support or approval for the work performed under this agreement.